

Exhibit 4

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF TEXAS
3 AUSTIN DIVISION
4

5 KATHY CLARK, AMY ENDSLEY, SUSAN
6 GRIMMETT, MARGUERIETTE SCHMOLL,
7 and KEVIN ULRICH, on behalf of
8 themselves and all others
9 Similarly situated,

10
11 Plaintiffs,

12

13 vs.

No. 1:12-CV-00174-SS

14

15 CENTENE CORPORATION, CENTENE
16 COMPANY OF TEXAS, L.P., and
17 SUPERIOR HEALTHPLAN, INC.,
18
19 Defendants.

20 DEPOSITION OF TRICIA DINKELMAN,
21 taken on behalf of the Plaintiffs, at the offices of
22 Armstrong Teasdale L.L.P., 7700 Forsyth Boulevard,
23 Suite 1800, St. Louis, Missouri, on the 24th day of
24 October, 2012, before Gretta G. Cairatti, RPR, CRR,
25 MO-CCR #790, IL-CSR #084-003418, and Notary Public.

1 would not have the answer. That is an answer. It
2 may not be the substantive answer that you're
3 looking for.

4 **MR. LANGENFELD:** Well, it's not a
5 substantive answer at all.

6 **MR. KAISER:** Well, it's a substantive answer
7 if the ultimate question is whether Centene
8 Corporation determines, documents, publishes,
9 reviews, maintains, updates and disseminates all of
10 those -- all of those personnel policies; that it's
11 a substantive answer.

12 **QUESTIONS BY MR. LANGENFELD:**

13 **Q** Okay. As the corporate representative of
14 Centene Corporation, do you have any knowledge about
15 the general terms, and without regard to any
16 specific person other than Plaintiffs, the job
17 duties, requirements, and descriptions of nurses
18 employed at Centene Corporation and any and all of
19 its subsidiaries, and the process whereby Centene
20 Corporation determines, documents, publishes,
21 reviews, maintains, updates and disseminates to its
22 subsidiaries said job duties, requirements and
23 descriptions? Do you have any knowledge of that
24 area?

25 **A** Centene Corporation would not -- does not

1 have knowledge of that area.

2 Q Do you have any knowledge of that area as
3 you sit here today?

4 A As a representative of Centene Corporation?

5 Q Yes, Ma'am.

6 A No.

7 Q Do you have any knowledge of Centene
8 Corporation's employment, human resources, payroll
9 and personnel policies and procedures, including but
10 not limited to an employee handbook, and the process
11 whereby Centene Corporation determines, creates,
12 documents, publishes, reviews, maintains, updates,
13 and disseminates to its subsidiaries said
14 employment, human resources, payroll and personnel
15 policies and procedures? Do you have any knowledge
16 of that area?

17 MR. KAISER: Let me object to the form,
18 and -- and -- because it's really two separate
19 questions. The first set of questions, and it's
20 true with each one of them, is Centene Corporation's
21 employment, etcetera, policies. And then the second
22 part of the question is, And the process whereby
23 Centene Corporation determines, creates, documents.
24 So there are two different lines of inquiry, if we
25 could break those down into two separate areas.

1 **QUESTIONS BY MR. LANGENFELD:**

2 **Q** Do you have any knowledge of either of
3 those?

4 **A** Centene Corporation does not have any
5 employees, and has the Board of Directors. The
6 Board of Directors would not have knowledge of that
7 information.

8 **Q** Do you have any knowledge of that
9 information as you sit here today?

10 **A** No.

11 **Q** Next, in general --

12 **MR. KAISER:** I'd like to take a break.

13 (Short recess taken.)

14 **THE WITNESS:** Can we go back to number 2?

15 **QUESTIONS BY MR. LANGENFELD:**

16 **Q** Sure.

17 **A** So I'm breaking it out like Bob indicated.
18 The first part about Centene's employment, human
19 resources, payroll, personnel and policies and
20 procedures, since Centene Corporation doesn't have
21 employees, you know, there are no answers to that.
22 The answer is, Centene doesn't have any employees.

23 The second part, Centene Corporation does
24 have knowledge that it does not do any of those
25 things under Centene Corporation determines,

1 creates, documents, publishes, reviews, maintains,
2 updates and disseminates to its subsidiaries.

3 Centene Corporation does not perform those
4 functions. The Board of Directors does not get into
5 that level of detail.

6 **Q** In general terms, and without regard to any
7 specific persons other than Plaintiffs, the rate and
8 method of pay for nurses employed at Centene
9 Corporation and any and all of its subsidiaries, and
10 the process whereby Centene Corporation creates,
11 documents, publishes, reviews, maintains, updates
12 and disseminates to its subsidiaries said rate and
13 method of pay, do you have any information in that
14 area?

15 **A** Well, Centene Corporation does not employ
16 nurses, and Centene Corporation does have knowledge
17 that it does not determine, create, document,
18 publish, review, maintain, update and disseminate
19 those documents to its subsidiaries about the pay of
20 the nurses.

21 **Q** In general terms, and without regard to any
22 specific person other than Plaintiffs, the FLSA
23 exemption status of nurses employed at Centene
24 Corporation, do you have any knowledge of that?

25 **A** There are no employees at Centene

1 Corporation.

2 **Q** Do you have any knowledge of the FLSA
3 exemption status of nurses at any and all of Centene
4 Corporation's subsidiaries? Do you have any of that
5 knowledge?

6 **A** Centene Corporation would not have that
7 level of detailed knowledge about the exemption
8 status of nurses at its subsidiaries.

9 **Q** The process whereby Centene Corporation
10 determines, creates, publishes, reviews, maintains,
11 updates, and disseminates to its subsidiaries said
12 FLSA exemption, any knowledge?

13 **A** Centene Corporation does not perform those
14 duties.

15 **Q** Centene Corporation's involvement in and
16 control over the employment practices and business
17 operations of any and all of its subsidiary
18 locations, do you have any of that knowledge?

19 **A** Centene Corporation, as the Board of
20 Directors, does not have control over the employment
21 practices of its subsidiaries. Centene Corporation,
22 as the Board of Directors, does have a fiduciary
23 responsibility to shareholders, and so it does, in
24 that responsibility, review the 10Qs and the 10Ks
25 that are filed by Centene Corporation, and has

1 knowledge of the business operations, you know, that
2 are discussed in those documents. And, you know,
3 very high level information is provided to the Board
4 of Directors so that it can fulfill its fiduciary
5 responsibilities to the shareholders.

6 **Q** As far as employment practices such as
7 exempt status of nurses, hours worked by nurses,
8 that sort of thing, do you have any information
9 about that?

10 **A** Centene Corporation does not get into that
11 level of detail.

12 **Q** Do you have information as you sit here
13 today?

14 **A** No.

15 **Q** The collection, retention, and maintenance
16 of payroll and personnel records including, but not
17 limited to, those required by 29 CFR Section 516.3
18 relating to nurses employed at Centene Corporation
19 and any and all of its subsidiary locations, do you
20 have any knowledge on that?

21 **A** Centene Corporation doesn't have any
22 employees.

23 **Q** Do you have any knowledge on that as you sit
24 here today, Miss Dinkelman?

25 **A** No.

1 **Q** The business function performed by Bankers
2 Reserve Life Insurance Company of Wisconsin and the
3 basis, if any, for alleging Bankers Reserve Life
4 Insurance Company of Wisconsin employs nurses
5 working at Centene Corporation at any and all of its
6 subsidiary locations, do you have any knowledge on
7 that?

8 **A** Centene Corporation would not have the
9 knowledge that Bankers Reserve Life Insurance
10 Company employs nurses.

11 **Q** Do you, as you sit here today as Centene
12 Corporation's corporate representative, in response
13 to this deposition notice, do you have any of that
14 information?

15 **A** Well, I did circle it on the org chart, as
16 was included in this interrogatory.

17 **Q** Is that the extent of your knowledge is the
18 circle you put on the org chart?

19 **A** That they do employ nurses, yes.

20 **Q** In general terms and without regard to
21 documents pertaining to any specific person or
22 persons other than the Plaintiffs, the following
23 categories of documents bearing the Centene
24 Corporation logo and/or trade inscription that were
25 distributed to nurses employed at Centene

1 Corporation and any and all of its subsidiaries, and
2 then there's a list of 1, 2, 3, 4, 5, 6, 7, 8, 9, 10
3 documents, do you have that knowledge as you sit
4 here today?

5 **A** I did review those documents.

6 **Q** Do you know whether they've been distributed
7 to nurses at subsidiaries?

8 **A** Centene Corporation would not have that
9 level of knowledge. The Centene Corporation logo is
10 put on those documents as a -- as a matter of, you
11 know, economies of scale, cost --

12 **Q** As what?

13 **A** Economies of scale, cost reduction. It
14 would be impractical for each subsidiary to change
15 the documents.

16 **Q** Why does there have to be a logo at all?

17 **A** I do not ...

18 **Q** The handbook you -- you have in front of you
19 doesn't have a logo on it. Why can't the
20 subsidiaries use those documents without a logo?

21 How come it has to have the Centene Corporation logo
22 on it?

23 **A** I don't think anybody has said that Centene
24 Corporation's logo has to be on it.

25 **Q** Well, you said that it's on it because it

1 would be impractical for the subsidiaries to put
2 their own logo.

3 **A** They could take it off. Centene Corporation
4 doesn't know if they take it off or not.

5 **Q** Did you make any inquiry? Did you make any
6 inquiry?

7 **A** Oh, no, I did not.

8 **Q** In general terms and without regard to any
9 specific persons other than Plaintiffs, the
10 existence of individuals employed by Centene
11 Corporation or any of its subsidiaries since
12 February 22, 2009, in the following jobs who have
13 been classified as exempt from the overtime
14 requirements of the FLSA. A, Case Manager/
15 Re-Certification; B, Case Manager/Prior
16 Authorization; C, Case Manager I; D, Medical
17 Management Nurse; and E, any other job performing
18 substantially similar job duties, including but not
19 limited to applying an individual patient's medical
20 data to nationally recognized criteria on a
21 case-by-case basis to determine the propriety of
22 medical services and approve or deny the request
23 accordingly, do you have any knowledge in that area?

24 **A** Centene Corporation does not have knowledge
25 of these individual job descriptions.

1 **Q** As you sit here as their corporate
2 representative today in response to that notice of
3 deposition, do you have knowledge responsive to that
4 area of inquiry?

5 **A** That level of detail is not known by Centene
6 Corporation.

7 **Q** Ma'am, my question is, as you sit here
8 today, do you have that information?

9 **MR. KAISER:** Well, I think she's answered
10 the question.

11 **MR. LANGENFELD:** I don't think she's
12 answered it at all. I'll object, nonresponsive.

13 **QUESTIONS BY MR. LANGENFELD:**

14 **Q** Do you have that knowledge as you sit here
15 today?

16 **A** No.

17 **Q** Do you have any knowledge of whether such
18 employees have worked hours in excess --

19 **MR. KAISER:** Well, wait, I'm going to --
20 you're going to object that it's not responsive, and
21 the fact of the matter is, is that Centene doesn't
22 know this information is -- is responsive. That's
23 different than, I don't know.

24 **MR. LANGENFELD:** Whether -- are you finished
25 with your objection?

1 **MR. KAISER:** I was responding to yours.

2 **MR. LANGENFELD:** Okay. Do I make a ruling
3 or do we wait?

4 **MR. KAISER:** If you'd like. We'll --

5 **MR. LANGENFELD:** Overruled.

6 **QUESTIONS BY MR. LANGENFELD:**

7 **Q** Whether any such employee has worked in
8 excess of 40 hours in a work week and did not
9 receive overtime compensation, do you have any
10 knowledge of that area?

11 **A** Centene Corporation does not have that level
12 of detail, no.

13 **Q** Do you have that knowledge as you sit here
14 today?

15 **A** No.

16 **Q** Financial, budgetary, actuarial or
17 cost-benefit analysis of labor costs associated with
18 compensating employees performing the above jobs on
19 a salary as opposed to an hourly basis, regardless
20 of whether such jobs were located at Centene
21 Corporation or any of its subsidiaries, do you have
22 any knowledge in that area?

23 **A** Centene Corporation does not perform those
24 functions and does not have the level of knowledge
25 related to -- to those functions, related to the --

1 the hourly basis of -- of the employees.

2 Q So you don't have any knowledge as you sit
3 here today?

4 A No.

5 Q Centene Management Company, LLC's role in
6 determining and controlling the employment practices
7 and business operations of any subsidiary of Centene
8 Corporation, do you have that knowledge?

9 A Centene Corporation knows that there is a
10 management company that is responsible for the
11 employment practices of -- of its employees.
12 Centene Corporation does not know the -- the details
13 of that information. They know that Centene
14 Management Company has employees.

15 Q Do you have any of that knowledge as you sit
16 here right now?

17 A Just the same thing that I just stated is
18 the level of knowledge.

19 Q I'm asking about you as the corporate rep.

20 A That's how I'm answering the question is as
21 a representative of Centene Corporation.

22 Q Yeah, and you're a human being. You're
23 sitting here today with knowledge of certain things
24 and I'm asking you whether your knowledge includes
25 the area we just spoke of?

1 **A** What I stated was the level of knowledge
2 that Centene Corporation has, and myself as the
3 representative, that's -- that's my answer to that
4 question.

5 **Q** Do you have any of that knowledge?

6 **A** What I just stated. That is what Centene
7 Corporation knows, that Centene Management
8 Company --

9 **Q** I think we're getting --

10 **MR. KAISER:** The witness is not obligated to
11 provide testimony beyond what the corporate
12 representative would know in her capacity as
13 corporate representative because her answer becomes
14 the answer -- the designated answer for the
15 corporation.

16 **MR. LANGENFELD:** Or is reasonably available.

17 **MR. KAISER:** Right. And so she's now -- she
18 is making the judgment as to what is it that Centene
19 Corporation would or wouldn't know, and she's
20 provided that answer.

21 **QUESTIONS BY MR. LANGENFELD:**

22 **Q** And we've talked about area number 12, I
23 think. That was the organizational chart.

24 **A** Right.

25 **Q** Other than that, do you have any other

1 knowledge responsive to these areas?

2 **A** Not beyond what I've said.

3 **Q** Describe to me the efforts you made to
4 acquire any of this knowledge or to see whether it's
5 reasonably available.

6 **A** I met with the representatives of Armstrong
7 Teasdale. I had discussions with my supervisor,
8 Jeff Schwaneke. I talked to Stephanie Hall, who you
9 talked to previously. And I talked to one other
10 person in human resources.

11 **Q** Did you make any effort to contact any of
12 the subsidiaries to gain this information?

13 **A** No.

14 **Q** Is there any reason why that information
15 wouldn't have been reasonably available for you if
16 you had made that phone call?

17 **MR. KAISER:** Well, I'm going to object
18 insofar as it calls for a legal conclusion.

19 **QUESTIONS BY MR. LANGENFELD:**

20 **Q** You can answer.

21 **MR. KAISER:** If you know. I mean, if -- we
22 have an argument about what's reasonably available,
23 but ...

24 **THE WITNESS:** Yeah, I --

25

1 **QUESTIONS BY MR. LANGENFELD:**

2 **Q** I -- I -- you didn't even make the phone
3 call, did you?

4 **A** No, I did not make phone calls.

5 **MR. LANGENFELD:** Take a quick break.

6 **MR. KAISER:** Let me -- let me add, and --
7 that my understanding, and Jeremy's, is that there
8 was a specific conversation in which we raised the
9 fact that this was going to be unduly burdensome,
10 that the corporation may not know everything that
11 its subsidiaries are doing, and the response was,
12 Well, then, if she doesn't know, then her answer is
13 I don't know.

14 **MR. LANGENFELD:** Well, I don't think that
15 she's required to know specifically everything
16 they're doing but the rule imposes a duty to find
17 out what's at least reasonably available. I mean,
18 conscious ignorance is not a defense to a notice
19 of --

20 **MR. KAISER:** I hear you.

21 **MR. LANGENFELD:** -- of deposition.

22 **MR. KAISER:** I understand, we just have a
23 disagreement.

24 **MR. LANGENFELD:** So --

25 **MR. KAISER:** Did you want to take a break?